

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

February 11, 2003 LB 128

introduced.) Mr. Clerk, next agenda item.

ASSISTANT CLERK: Mr. President, LB 128 was introduced by Senator Quandahl. (Read title.) Bill was read for the first time on January 10, referred to the Banking, Commerce, and Insurance Committee. That committee reports the bill to General File with no committee amendments.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Quandahl, you're recognized to open on advancement of LB 128.

SENATOR QUANDAH: Thank you, Senator Cudaback. Members of the body, LB 128 is a bill that was heard before the Banking Committee on January 28, 2003, and it involves a couple of minor changes to the Uniform Commercial Code, specifically in articles in 3 and 4. It deals with two different topics and let me just briefly describe what the changes are. The first one deals with lost instruments. Under the current provisions of the Uniform Commercial Code, Section 3-309, the transferee of a lost instrument must not only provide that the transferor was entitled to enforcement that instrument, but that the transferee was also in possession off the instrument at the time it was lost. To make a long story short, there have been some court cases where that's a problem for banks or for the FDIC or other institutions that actually take possession of instruments, or take over banks after they've went under, and some courts have found that those acquiring institutions are not entitled to enforce notes that they've acquired under the current Section UCC 3-309. With the changes proposed under Section 3 of LB 128, the transferee of a lost instrument need only prove that the transferor was entitled to enforce that instrument, not that the transferee was in possession of that instrument at the time it was lost, and that's the first section of the bill. The bill also deals with demand drafts. A demand draft is a type of instrument that's printed by a merchant or a telemarketer that has purportedly obtained permission from a customer to create a draft drawn on the customer's account. These demand drafts are not signed by the customer. They usually have something like signature on file, or authorized by the customer, or language of similar import. If a demand draft has been authorized by that customer, it is a draft properly payable and must be honored by